

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ALEX M. BERMUDEZ,

Plaintiff,

vs.

SOCIAL SECURITY ADMINISTRATION,

Defendant.

3:11-cv-00038-RCJ-RAM

ORDER

Plaintiff Alex M. Bermudes has sued the Social Security Administration (“SSA”) under the Truth in Lending Act (“TILA”), Racketeer Influenced and Corrupt Organizations Act (“RICO”), and for common law fraud. Plaintiff has not identified the basis for jurisdiction and has made no factual allegations. Normally, the Court would dismiss with leave to amend. However, amendment would be futile in this case, because Defendant is immune from suit under any of these claims. *See United States v. Petroff-Kline*, 557 F.3d 285, 297 (6th Cir. 2009) (TILA); *McMillan v. Dep’t of Interior*, 907 F. Supp. 322, 326 (D. Nev. 1995) (Pro, J.), *aff’d*, 87 F.3d 1320 (9th Cir. 1996), *cert. denied*, 519 U.S. 1132 (1997) (RICO); *Moon v. Takisaki*, 501 F.2d 389, 390 (9th Cir. 1974) (citing 28 U.S.C. § 2680(h)) (claims based on misrepresentation).

Plaintiff appears to assert a claim on behalf of his mother, who died in 1994, which he has no standing to do unless he is the administrator of her estate. Whether Plaintiff means to appeal the SSA’s denial of benefits to his mother or to him directly, he must first file a claim with the SSA. If the claim is denied, he must exhaust his administrative remedies with the SSA before filing a lawsuit against it.

CONCLUSION

IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 11) is GRANTED.

IT IS FURTHER ORDERED that the Clerk shall enter judgment and close the case accordingly.

IT IS SO ORDERED.

Dated this 5th day of July, 2011.



ROBERT C. JONES
United States District Judge